

Nuclear Regulatory Commission

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order to safeguard and prevent disclosure of Restricted Data.

[69 FR 2233, Jan. 14, 2004]

§2.3 Resolution of conflict.

(a) In any conflict between a general rule in subpart C of this part and a special rule in another subpart or other part of this chapter applicable to a particular type of proceeding, the special rule governs.

(b) Unless otherwise specifically referenced, the procedures in this part do not apply to hearings in 10 CFR parts 4, 9, 10, 11, 12, 13, 15, 16, and subparts H and I of 10 CFR part 110.

[69 FR 2233, Jan. 14, 2004]

§2.4 Definitions.

As used in this part,

ACRS means the Advisory Committee on Reactor Safeguards established by the Act.

Act means the Atomic Energy Act of 1954, as amended (68 Stat. 919).

Adjudication means the process for the formulation of an order for the final disposition of the whole or any part of any proceeding subject to this part, other than rule making.

Administrative Law Judge means an individual appointed pursuant to section 11 of the Administrative Procedure Act to conduct proceedings subject to this part.

Commission means the Commission of five members or a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974 (88 Stat. 1242), or any officer to whom has been delegated authority pursuant to section 161n of the Act.

Commission adjudicatory employee means—

(1) The Commissioners and members of their personal staffs;

(2) The employees of the Office of Commission Appellate Adjudication;

(3) The members of the Atomic Safety and Licensing Board Panel and staff assistants to the Panel;

(4) A presiding officer appointed under §2.313, and staff assistants to a presiding officer;

(5) Special assistants (as defined in §2.322);

(6) The General Counsel, the Solicitor, the Associate General Counsel for

Licensing and Regulation, and employees of the Office of the General Counsel under the supervision of the Solicitor;

(7) The Secretary and employees of the Office of the Secretary; and

(8) Any other Commission officer or employee who is appointed by the Commission, the Secretary, or the General Counsel to participate or advise in the Commission's consideration of an initial or final decision in a proceeding. Any other Commission officer or employee who, as permitted by §2.348, participates or advises in the Commission's consideration of an initial or final decision in a proceeding must be appointed as a Commission adjudicatory employee under this paragraph and the parties to the proceeding must be given written notice of the appointment.

Contested proceeding means—(1) A proceeding in which there is a controversy between the NRC staff and the applicant for a license or permit concerning the issuance of the license or permit or any of the terms or conditions thereof;

(2) A proceeding in which the NRC is imposing a civil penalty or other enforcement action, and the subject of the civil penalty or enforcement action is an applicant for or holder of a license or permit, or is or was an applicant for a standard design certification under part 52 of this chapter; and

(3) A proceeding in which a petition for leave to intervene in opposition to an application for a license or permit has been granted or is pending before the Commission.

Department means the Department of Energy established by the Department of Energy Organization Act (Pub. L. 95–91, 91 Stat. 565 42 U.S.C. 7101 *et seq.*) to the extent that the Department, or its duly authorized representatives, exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104 (b), (c) and (d) of the Energy Reorganization Act of 1974 (Pub. L. 93–438, 88 Stat. 1233 at 1237, 42 U.S.C. 5814) and retransferred to the Secretary of Energy pursuant to

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section 301(a) of the Department of Energy Organization Act (Pub. L. 95–91, 91 Stat. 565 at 577–578, 42 U.S.C. 7151).

Digital ID certificate means a file stored on a participant's computer that contains the participant's name, e-mail address, and participant's digital signature, proves the participant's identity when filing documents and serving participants electronically through the E-Filing system, and contains public keys, which allow for the encryption and decryption of documents so that the documents can be securely transferred over the Internet.

Electric utility means any entity that generates or distributes electricity and which recovers the costs of this electricity, either directly or indirectly through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, are included within the meaning of "electric utility."

Electronic acknowledgment means a communication transmitted electronically from the E-Filing system to the submitter confirming receipt of electronic filing and service.

Electronic Hearing Docket means the publicly available Web site which houses a visual presentation of the docket and a link to its files.

E-Filing System means an electronic system that receives, stores, and distributes documents filed in proceedings for which an electronic hearing docket has been established.

Ex parte communication means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given.

Facility means a production facility or a utilization facility as defined in §50.2 of this chapter.

Guidance for Electronic Submissions to the NRC means the document issued by the Commission that sets forth the transmission methods and formatting standards for filing and service under E-Filing. The document can be obtained by visiting the NRC's Web site at <http://www.nrc.gov>.

Investigative or litigating function means—

(1) Personal participation in planning, conducting, or supervising an investigation; or

(2) Personal participation in planning, developing, or presenting, or in supervising the planning, development or presentation of testimony, argument, or strategy in a proceeding.

License means a license, including an early site permit, construction permit, operating license, combined license, manufacturing license, or renewed license issued by the Commission.

Licensee means a person who is authorized to conduct activities under a license.

NRC personnel means:

(1) NRC employees;

(2) For the purpose of §§2.336, 2.702, 2.709 and 2.1018 only, persons acting in the capacity of consultants to the Commission, regardless of the form of the contractual arrangements under which such persons act as consultants to the Commission; and

(3) Members of advisory boards, committees, and panels of the NRC; members of boards designated by the Commission to preside at adjudicatory proceedings; and officers or employees of Government agencies, including military personnel, assigned to duty at the NRC.

NRC Public Document Room means the facility at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, where certain public records of the NRC that were made available for public inspection in paper or microfiche prior to the implementation of the NRC Agencywide Documents Access and Management System, commonly referred to as ADAMS, will remain available for public inspection. It is also the place where NRC makes computer terminals available to access the Publicly Available Records System (PARS) component of ADAMS on the NRC Web site, <http://www.nrc.gov>, and where copies of publicly available documents can be viewed or ordered for a fee as set forth in §9.35 of this chapter. The facility is staffed with reference librarians to assist the public in identifying and locating documents and in using the NRC Web site and ADAMS. The NRC Public Document Room is

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open from 7:45 am to 4:15 pm, Monday through Friday, except on Federal holidays. Reference service and access to documents may also be requested by telephone (301-415-4737 or 800-397-4209) between 8:30 am and 4:15 pm, or by e-mail (PDR@nrc.gov), facsimile (301-415-3548), or letter (NRC Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852-2738).

NRC records and documents means any book, paper, map, photograph, brochure, punch card, magnetic tape, paper tape, sound recording, pamphlet, slide, motion picture, or other documentary material regardless of form or characteristics, made by, in the possession of, or under the control of the NRC pursuant to Federal law or in connection with the transaction of public business as evidence of NRC organization, functions, policies, decisions, procedures, operations, programs or other activities. "NRC records and documents" do not include objects or articles such as structures, furniture, tangible exhibits or models, or vehicles and equipment.

NRC Web site, <http://www.nrc.gov>, is the Internet uniform resource locator name for the Internet address of the Web site where NRC will ordinarily make available its public records for inspection.

Optical Storage Media means any physical computer component that meets E-Filing Guidance standards for storing, saving, and accessing electronic documents.

Participant means an individual or organization that has petitioned to intervene in a proceeding or requested a hearing but that has not yet been granted party status by an Atomic Safety and Licensing Board or other presiding officer. Participant also means a party to a proceeding and any interested State, local governmental body, or affected Federally-recognized Indian Tribe that seeks to participate in a proceeding under §2.315(c). For the purpose of service of documents, the NRC staff is considered a participant even if not participating as a party.

Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency

other than the Commission or the Department, except that the Department shall be considered a person with respect to those facilities of the Department specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

Potential party means any person who has requested, or who may intend to request, a hearing or petition to intervene in a hearing under 10 CFR part 2, other than hearings conducted under Subparts J and M of 10 CFR part 2.

Presiding officer means the Commission, an administrative law judge, an administrative judge, an Atomic Safety and Licensing Board, or other person designated in accordance with the provisions of this part, presiding over the conduct of a hearing conducted under the provisions of this part.

Public Document Room means the place at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852-2738, at which public records of the Commission will ordinarily be made available for inspection.

Safeguards Information means information not classified as National Security Information or Restricted Data which specifically identifies a licensee's or applicant's detailed control and accounting procedures for the physical protection of special nuclear material in quantities determined by the Commission through order or regulation to be significant to the public health and safety or the common defense and security; detailed security measures (including security plans, procedures, and equipment) for the physical protection of source, byproduct, or special nuclear material in quantities determined by the Commission through order or regulation to be significant to the public health and safety or the common defense and security; security measures for the physical protection and location of certain plant equipment vital to the safety of production or utilization facilities; and any other information

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within the scope of Section 147 of the Atomic Energy Act of 1954, as amended, the unauthorized disclosure of which, as determined by the Commission through order or regulation, could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of sabotage or theft or diversion of source, byproduct, or special nuclear material.

Secretary means the Secretary to the Commission.

Except as redefined in this section, words and phrases which are defined in the Act and in this chapter have the same meaning when used in this part.

[27 FR 377, Jan. 13, 1962]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 2.4, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 2.8 Information collection requirements: OMB approval.

This part contains no information collection requirements and therefore is not subject to requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

[61 FR 43408, Aug. 22, 1996]

Subpart A—Procedure for Issuance, Amendment, Transfer, or Renewal of a License, and Standard Design Approval

§ 2.100 Scope of subpart.

This subpart prescribes the procedure for issuance of a license; amendment of a license at the request of the licensee; transfer and renewal of a license; and issuance of a standard design approval under subpart E of part 52 of this chapter.

[72 FR 49470, Aug. 28, 2007]

§ 2.101 Filing of application.

(a)(1) An application for a permit, a license, a license transfer, a license amendment, a license renewal, or a standard design approval, shall be filed with the Director, Office of New Reactors, the Director, Office of Nuclear Re-

actor Regulation, the Director, Office of Nuclear Material Safety and Safeguards, or the Director, Office of Federal and State Materials and Environmental Management Programs, as prescribed by the applicable provisions of this chapter. A prospective applicant may confer informally with the NRC staff before filing an application.

(2) Each application for a license for a facility or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee will be assigned a docket number. However, to allow a determination as to whether an application for a limited work authorization, construction permit, operating license, early site permit, standard design approval, combined license, or manufacturing license for a production or utilization facility is complete and acceptable for docketing, it will be initially treated as a tendered application. A copy of the tendered application will be available for public inspection at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC PDR. Generally, the determination on acceptability for docketing will be made within a period of 30 days. However, in selected applications, the Commission may decide to determine acceptability based on the technical adequacy of the application as well as its completeness. In these cases, the Commission, under § 2.104(a), will direct that the notice of hearing be issued as soon as practicable after the application has been tendered, and the determination of acceptability will be made generally within a period of 60 days. For docketing and other requirements for applications under part 61 of this chapter, see paragraph (g) of this section.

(3) If the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Program, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, determines that a tendered application for a construction permit or operating license for a production or utilization facility, and/or any environmental report required pursuant to subpart A of part 51 of this chapter, or part thereof as provided in paragraphs (a)(5) or (a)-1